

HMR WIND FARM PROJECT

AGENDA & MINUTES MEETING OF PLANNING WITNESSES

1.00pm Wednesday 15 April 2009 at the Hamilton Office of
Environmental Management Services Ltd
219 Collingwood Street Hamilton

Attendees:

- Mark Chrisp – Planning Consultant for Contact Energy Ltd
- Chris Dawson – Planning Consultant for Environment Waikato
- Richard Gard'ner – Regulatory Planning Co-Ordinator: Landuse for Franklin District Council – arrived late
- AnaMaria D'Aubert – Planning Consultant for Waikato District Council
- Gillian Cockerell – Planning Consultant for the Director General of Conservation
- Sir William Birch – Representative for Sunset Views Ltd and Rimanui Farms Ltd

Purpose of the Meeting

The directions of the BOI are that by 17 April 2009:

“Any report prepared by expert witnesses on any issues agreed and the extent of any dispute which remains, to be circulated to the MfE Project Manager, the applicant and all other submitters.”

Agenda

1. RMA status of activities in each jurisdiction (EW, FDC, and WDC).
2. Extent to which activities are bundled in each jurisdiction, and end result.
3. Application of S.104D Thresholds Tests (re non-complying activities).
4. Assessment of Applications under s.104 of the RMA.

Meeting commenced 1.20pm

Each person present introduced themselves and stated who they were representing.

Mark Chrisp introduced the minor changes to the Agenda – adding Sir William Birch to the list and correcting Richard Gard'ner's title.

Mark Chrisp set the agenda on the basis on the four key areas of the planning assessment that the BOI will be seeking advice on as listed above.

Richard Gard'ner arrived 1.23pm.

Gillian Cockerell sought that an additional point to the agenda that all parties should agree that the correct objectives and policies had been looked at. Chrisp suggested that that would be covered in 3 & 4.

Sir William stated he had two roles in the meeting. First as an advocate for Sunset Views Limited and also making submissions on its behalf.

Sir William Birch left the meeting at 2.50pm.

1. RMA status of activities in each jurisdiction (EW, FDC, and WDC).		
	Points Agreed	Points In Dispute
EW	<p>Status of activities set out by Chrisp was concurred with by Dawson.</p> <p>There was one issue that Cockerell had with vegetation clearance. She was unsure that the vegetation clearance did not require a resource consent. There was no evidence provided to confirm this.</p> <p>Chrisp outlined the process which was undertaken to determine the extent of vegetation clearance and whether or not consent was required. <u>A condition has been proffered by S Daysh in rebuttal evidence which resolves this issue.</u></p> <p>As a result all parties agree that: the take at the Whitford Spring is non complying</p> <p>All other water takes are restricted discretionary.</p> <p>All the earthworks activities are discretionary activity.</p> <p><u>All the discharges to water are</u></p>	

	<p><u>discretionary activities.</u></p> <p>Other activities in the river beds are controlled activities.</p>	
FDC	<p>All agree that there are three elements of the project that are non-complying activities. These are: concrete batching plants; the re-opening and operation of Whitford Quarry; and public viewing platforms.</p> <p>All agree that earthworks activities as part of the windfarm are discretionary activities.</p> <p>All agree that earthworks within the Coastal Zone 60 metre <u>Coastal Protection Setback</u>, if they occurred would be non-complying activities.</p> <p>It is agreed that it is a matter of interpretation where the 60 metre Coastal Zone <u>Protection Setback</u> begins and therefore whether some of the turbines are located within the Coastal <u>Protection Setback</u> (as shown in the Tasman Coast Diagram on page 350 of Plan Change 14).</p> <p>Contact undertakes to further investigate the location of all turbines within Franklin District with respect to the 60 metre Coastal <u>Protection Setback</u>.</p> <p><u>The presumption of the Plan is that indigenous vegetation clearance is permitted except in its own right only gives rise to the need for a non-complying consent in the coastal zone setback (60m from the escarpment), or in areas set out in Schedule 5A. In the case of the windfarm, indigenous vegetation clearance is an effect to be taken into account as part of the assessment of the windfarm, which is a discretionary activity under Rule 15.1.2.8. Otherwise vegetation clearance, as part of the windfarm, should be regarded</u></p>	

	as a discretionary activity under Rule 15.1.2.8.	
WDC	<p>The windfarm, the concrete batching plants, earthworks and vegetation clearance are Non-Complying Activities under the Waikato Operative Plan.</p> <p>All agree that improvements to local roads within the road reserve are a permitted activity.</p> <p>Chrisp & D'Aubert agree: all improvements to the local roads beyond the road reserve are discretionary activities.</p> <p>All agreed that the status of the windfarm under the Proposed Plan is as per Table 4.3 on page 22 of the HMR – Waikato Wind Farm Planning Assessment (dated June 2008).</p>	<p>Cockerell is of the view that where the improvements to local roads occur outside the road reserve, they are non-complying activities because they take on the status of the windfarm.</p>

2. Extent to which activities are bundled in each jurisdiction, and end result.

	Points Agreed	Points In Dispute
EW	<p>Chrisp & Dawson agree on the approach set out in Chrisp's EIC regarding bundling (i.e. no bundling).</p> <p>Cockerell agrees to this approach on the basis that the take from the Whitford Spring is for a potable water supply only so it is not integral to the operation of the quarry and the percentage of the flow from that Spring into the adjoining stream is negligible. As such the effects are stand alone.</p>	
FDC		<p>The parties could not agree on the extent to which the activities can or should be bundled.</p>
WDC	<p>Chrisp stands by the approach in his EIC.</p> <p>D'Aubert is of the view that the approach proposed by the applicant is not unreasonable.</p>	<p>Cockerell takes the view that all the activities in the Waikato District should be bundled as a non-complying activity (including the improvements to roads).</p>

The parties agreed that it should be noted that the Council planners' participation in the clarification of items 1 & 2 on the agenda has been undertaken consistent with the direction provided in relation to the scope of their EIC (which was specifically to include advice as to the relevant planning provisions relating to the proposal in the Council's respective jurisdictions).

3. Application of S.104D Thresholds Tests (re non-complying activities).

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4. Assessment of Applications under s.104 of the RMA.

The planners' for the Councils agree that all relevant objectives and policies have been identified and discussed in the collective body of evidence (EIC and rebuttal) presented by the parties at this meeting. Crisp concurs with this view. Cockerell concurs with this view to the extent that the objectives and policies are relevant to the interests of the Director General of Conservation. Cockerell is neutral with regards to the balance of the objectives and policies.

Following a discussion in relation to objectives and policies, it was considered (by all present) inappropriate to pursue items 3 & 4 on the agenda as they stood because each of the respective planners has approached their consideration of the proposal on a different basis.

- Crisp has assessed the proposal in its totality; attempting to consider all relevant objectives, policies and environmental effects as is normal for a party advancing an application;
- Cockerell has assessed the proposal in terms of the interests of the Director General of Conservation which relate primarily to the coastal area and biodiversity; and
- The three Council planners have considered the proposal in relation to their own specific interests as neutral submitters to the proposal, rather than as reporting officers and as such none of the Council planners have undertaken a full assessment of the application against s104 of the RMA.

On that basis, the parties are not able to provide an agreed position on items 3 & 4, rather it is respectfully considered to be a matter for the BOI to determine on the totality of the evidence presented.

The above minutes represent a true and correct record of the matters that were discussed between the parties present at the abovementioned meeting, the issues that were agreed upon by the parties and the extent of the disputes that remain.

Signed:

Date:



15/4/09

Mark Crisp
Planning Consultant for Contact Energy Ltd

Signed:

Date:



15/4/09

Chris Dawson
Planning Consultant for Environment Waikato

Signed:

Date:



15/4/09

Richard Gardner
Regulatory Planning Co-Ordinator: Landuse for Franklin District Council

Signed:



AnaMaria D'Aubert
Planning Consultant for Waikato District Council

Date:

15/4/2009

Signed:



Gillian Cockerell
Planning Consultant for the Director General of Conservation

Date:

15/4/2009

Signed:

Sir William Birch
Representative for Sunset Views Ltd and Rimanui Farms Ltd

Date:
